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prohibiting secure juvenile detention

assessing the effectiveness of national standards detention criteria

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Foreword

A pervasive mandate of the 1974 Juvenile Justice and Delinquency Prevention Act is the meaningful involvement of young people in the effort to deinstitutionalize youthful offenders and to bring about improvements in the juvenile justice system. To this end Congress requires that all federal and state advisory groups established pursuant to the Act consist of at least one-third youth members to assure consideration of their unique perspectives in all aspects of juvenile justice. In this spirit we have sought to encourage student-based research with respect to children in adult jails and lockups.

Prohibiting Secure Juvenile Detention: Assessing the Effectiveness of National Standards Detention Criteria is such an effort having added significantly to the juvenile justice literature while fulfilling the academic requirements of graduate work. The findings of this research are unprecedented and provide a foundation for further inquiry into the Adjudication Standards recommended by the National Advisory Committee to the Administrator on Standards for the Administration of Juvenile Justice. More significantly, the findings pave the way for reconsideration of the conventional wisdom which allows vague and highly subjective criteria to be the often biased arbitor of danger to public safety and the court process.

James W. Brown
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Contents

Page 1 INTRODUCTION
5 METHODOLOGY
9 DATA RESULTS
17 IMPLICATIONS AND POLICY RECOMMENDATIONS
21 CONCLUSION
23 NOTES
26 APPENDIX A

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READEX FICHE

1 Introduction

"I hope I can be let out soon because I think I'm going crazy in here."
Statement of a 15-year old girl detained in an adult jail cell for six consecutive days.

It has been argued frequently that secure pretrial detention can be one of the most traumatic experiences in a child's life.[1] The socially destructive effects of detention on young children have been portrayed thoroughly by several authors. Studies have been suggested that the self-esteem of juveniles may be destroyed when a child is coercively removed from home and subjected to impersonal bureaucratic detention center procedures such as strip searches, institutional clothing, and routinized programs.[2] Moreover, a detention center's environment may serve to promote rather than discourage future delinquency behavior. Sherwood Norman of the National Council on Crime and Delinquency reported that detaining a child "in forced association with other delinquents intensifies his hostility to society and exalts his status in the delinquent group."[3]

Furthermore, the deleterious effects associated with confinement in a juvenile detention center are multiplied for the estimated 500,000 children a year placed in the nation's jails and lockups.[4] Facility and staff limitations in adult jails often mean that children are held either in direct contact with adult inmates, or placed in solitary confinement in closet-like cells. Medical, educational, recreational, and counseling services for children are also frequently lacking in adult jails. The observed negative effects of detaining children in adult jails and juvenile detention centers have for decades led criminal justice researchers to conclude that pretrial confinement be used only as a last resort.

Many legal issues also dictate a judicious use of secure pretrial detention. Confinement prior to trial seriously hinders the opportunity to prepare an effective defense.[5] Moreover, the fact that a child is detained prior to trial may adversely affect a judge's decision to release the child to a nonsecure post-trial setting.[6] Although the U.S. Supreme Court has stopped short of granting adult due process rights to juveniles at the preadjudicatory level, several lower court decisions have attacked the indiscriminate use of juvenile pretrial detention.[7]

In light of these findings, recent legislative action across the country is attempting to re-

strict pretrial detention. In 1974, the U.S. Congress passed the Juvenile Justice and Delinquency Prevention Act. Two of the major goals of that Act are to reduce the use of secure detention and to provide alternatives to detention for youth involved in the juvenile justice system.[8] Several state legislatures also have acted to narrow the allowable conditions for pretrial detention. Many states now require that a child must be released from pretrial secure custody unless: 1) the child poses a significant risk to the public safety or property; or, 2) there is a substantial threat to an orderly court process (e.g., the child is likely to threaten witnesses, not appear for court hearings, or run away pending transfer to another jurisdiction.)[9]

Despite these efforts to restrict pretrial detention, abundant evidence of pervasive detention abuse across the country still exists. In their 1976 jail study, the Children's Defense Fund found that only 39.5 percent of the 162 juveniles in jails on the day of their visit were charged with major person or property crimes.[10] In response to a survey conducted in 1979 by the Community Research Forum of the Univeristy of Illinois, the juvenile detention staff in Lincoln, Nebraska estimated that an average of 41 percent of the youth in detention could have been safely released to a supervised nonsecure setting.[11] Another study in 1979 found that over a quarter of the Passaic County, New Jersey juvenile detention center is reserved for a "trustee" wing. Although children in this wing, by virtue of their good behavior, are allowed to participate in daily community activities (e.g., restaurant dining and public recreation), at night they are returned to the secure wing and locked in their rooms.[12]

Another indicator of chronic detention abuse is revealed when detention rates between court jurisdictions are examined. For example, one rural county in southern New Jersey had a detention rate in 1977 that was five times as high as another nearby rural New Jersey county. This disparity occurred even though both counties were operating under a strict New Jersey statute limiting the use of secure detention.[13] Researchers in Pennsylvania found similiar disparities across the state's counties. They concluded that the availability of detention center in a county increased the likelihood of secure custody before trial, despite the presence of a single state statute attempting to regulate detention use.[14]

Recent evidence documenting persistent nationwide detention abuse certainly indicates that state statutes governing pretrial detention-- though increasingly more specific-- are still too broad to be meaningful. The wide discretion afforded detention decision-makers (e.g., police, court intake staff, and judges) to decide what constitutes a threat to the public safety or court process provides a large loophole to detain virtually any child referred to court. Clearly, more specific and objective detention criteria are required to define which juveniles should be eligible and not eligible for secure pretrial detention.

In 1976, the National Advisory Committee on Standards for the Administration of Juvenile Justice (hereinafter "Advisory Committee") issued a volume of national standards dealing with the juvenile justice adjudication process, including

pretrial detention decisions. The standards are supported on the premise that current detention practices are generally inappropriate, partially due to excessive discretion granted detention decision-makers. Consequently, specific and objective criteria based primarily on a child's legal status at the time of arrest are proposed to define juveniles eligible for secure pretrial detention. The criteria state that:

"Juveniles subject to the jurisdiction of the family court over delinquency should not be detained in a secure facility unless:

a. they are fugitives from another jurisdiction (on a delinquency petition);

b. they request protection in writing in circumstances that present an immediate threat of serious physical injury;

c. they are charged with murder in the first or second degree;

d. they are charged with a serious property crime or a crime of violence other than first or second degree murder which if committed by an adult would be a felony, and:

   i) they are already detained or on conditioned release in connection with another delinquency proceeding;

   ii) they have a demonstrable recent record of willful failures to appear at family court proceedings;

   iii) they have a demonstrable recent record of violent conduct resulting in physical injury to others; or

   iv) they have a demonstrable recent record of adjudications for serious property offenses; and

e. there is no less restrictive alternative that will reduce the risk of flight, or of serious harm to property or to the physical safety of the juvenile or others."[15]

Juveniles not meeting these criteria must be released to their parents or to a nonsecure shelter setting.* By establishing objective criteria that rely minimally on an intake officer's or judge's subjective judgment, the standards attempt to strike a balance between protecting children's pretrial rights and freedoms, and protecting the public safety and court process.

These criteria were developed, however, without field research attesting to their effectiveness. It is unknown whether most juveniles released to a nonsecure setting based on these criteria do actually appear for trial without incident. Consequently, there appears to be little incentive for states or localities to adopt these criteria

* Note that criteria "a-d" only determine eligibility for secure detention; they do not mandate detention. Even if a child is found eligible for detention, criterion "e" suggests that other less secure alternatives should still be considered.

on a widespread basis without assurance that the public safety and the court process can be protected if the criteria are applied. The purpose of this study, then, is to determine the effectiveness of the national standards criteria in protecting the public safety and the court process when the criteria are actually implemented by court jurisdictions.

2 Methodology

This research study focused on four jurisdictions: Gloucester County, New Jersey; Salt Lake County, Utah; Taos County, New Mexico; and Lenewee County, Michigan. Gloucester and Salt Lake Counties are primarily urban jurisdictions with populations over 175,000. Taos and Lenewee Counties are primarily rural jurisdictions with populations under 85,000.[16] Gloucester and Taos Counties were selected because their current detention practices are generally in accord with the criteria proposed by the Advisory Committee. Although top juvenile court officials were unaware of the specific national standards criteria, their pretrial detention philosophies result in virtually no children being detained who do not meet these criteria for detention. The other counties were selected to provide comparison data since their detention practices do not conform to national standards criteria.*

As previously mentioned, many state legislatures have acted to restrict pretrial detention to only instances where the public safety or court process must be protected. Therefore, if the Advisory Committee's criteria are effective, we expect that:

1) proportionately fewer children would be detained in jurisdictions that meet the criteria than in jurisdictions that do not meet the criteria;

2) jurisdictions meeting the criteria would not experience a significantly higher rate of rearrests between time of arrest and disposition; and

3) jurisdictions meeting the criteria would not experience a significantly higher rate of failure to appear for court hearings.

To make this determination, a survey of juvenile court referrals was conducted in each jurisdiction. A sequentially random sample of all youth referred to the juvenile court was selected based on the daily logbooks of the court intake or probation office. Samples were drawn to include cases referred to the courts from July, 1978 to May, 1979. Each of these sample cases involved the court making either an official or unofficial disposition (e.g., to file a petition and refer

* It is interesting to note that Salt Lake, Gloucester, and Lenewee Counties operate juvenile detention centers. When necessary, Taos County must detain children in the county's jails.

to trial, or place on unofficial probation, etc.) at a date following the initial referral. Therefore, in each case a decision was required by the court to either release or detain the child pending final disposition.

To each of these sample cases the Advisory Committee's criteria (a-d) were applied to assess eligibility for detention, and the actual pretrial placement decision was recorded. For this study, a child was considered "detained" if he/she spent over 12 hours in secure custody at some point between time of arrest and final disposition. Each record was studied to determine whether the child was rearrested prior to final disposition of the original charge. The specific rearrest offense and determination of guilt for that offense were recorded. In addition, court records were used to determine if a child failed to appear for court hearings and if the child was subsequently found. In general, the jurisdictions recorded a failure to appear only if the action was deliberate on the child's part. Information collection was terminated when the court made a final determination of the case (e.g., case was dismissed, or placed on unofficial probation, or final disposition was reached, etc.).*

A limitation of this study is that only four jurisdictions were analyzed. Consequently, this study's results cannot be used to predict the exact impacts of implementing the detention criteria in all jurisdictions. The results only test whether the criteria can be implemented safely in two specific jurisdictions in an urban and a rural setting. To reach broader conclusions, the number of jurisdictions studied would have to be increased, in addition to other changes in the research design. Time and resource constraints partially account for including only four counties. However, another major factor was the difficulty in finding jurisdictions that currently meet the criteria. Many leads to counties thought to have superlative detention practices were not confirmed when the actual detention records were studied. Top court officials in these counties were convinced that their jurisdiction was in compliance with the criteria. However, when detention statistics from a sample month were studied, the records showed many children in detention for status offenses, misdemeanors, and first-time felony charges. Without fail, each official expressed surprise that his detention facility was holding these types of children.

Previous research efforts have also neglected to thoroughly evaluate pretrial detention practices. Few studies in the juvenile justice field have employed detention, failure to appear, and rearrest rates to assess the effectiveness of detention decision-making. Donnell Pappenfort and Thomas Young report that, "Our initial comment on the literature on detention intake must be that it is rather interesting,

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* Note: The National Center for State Courts has criticized many pretrial release studies for failing to properly obtain statistics concerning detention, failure to appear, and rearrest rates. This research design has incorporated recommendations made by the National Center for State Courts and the Pretrial Services Resource Center on conducting research to determine the effectiveness of pretrial detention/release practices.

but deficient. The basic descriptive studies of decision-making process have not been done."[17] In Under Lock and Key, Rosemary Sarri notes,"Detention is a significant phase in the juvenile justice process because it constitutes the initial critical contact with the system for many youth. The detention process itself, however, has been largely ignored, and little effort has been directed toward study, change, or innovation."[18] Even though many state statutes stipulate that a child may only be detained to protect the public safety or court process, few jurisdictions know how many children fail to appear for court hearings or commit additional crimes as a result of their detention/release practices.

To date, only three prominent detention studies have been conducted which measured either rearrests or failures to appear. Walter Whitlatch reported that Cuyahoga County, Ohio was able to reduce its detention population by 60 percent through application of uniformly applied detention criteria. Only a vague reference to a one percent failure to appear rate was mentioned, however.[19] In 1973, Richard Ariessohn and Gordon Gonion presented data on a reduction in San Diego County's juvenile detention rate. They recorded a seven percent rearrest rate for juveniles who had been detained for an unspecified time and subsequently released. The rearrest figures were measured 30 days following release from detention, thus were not directly related to final disposition of the cases in the sample.[20] George Haarman in 1972 conducted a study of Louisville's detention practices which analyzed both failure to appear and rearrest rates. Haarman reported that only 2.8 percent of the juveniles referred to intake failed to appear in court, and 4.8 percent committed a new offense. However, the study only measured children who were released at intake or detained less than 48 hours. Children detained over 48 hours and released prior to final disposition of their case were not included in Haarman's sample.[21]

At the state level, the Florida Division of Youth Services (DYS) in the past monitored rearrest and failure to appear rates on a continuing basis. Annual reports issued by DYS described a "failure" category for each Florida county. The failure category included cases that either committed a delinquent offense between release and disposition, ran away, or failed to appear for subsequent court hearings. These statistics showed that the juvenile failure rate was consistently lower than that experienced in the adult bail bond system. Consequently, intake officers were able to counter arguments by police and others that many children released at intake were out on the streets committing additional crimes. Unfortunately, the Florida DYS discontinued collecting this data without pressing for a continued reduction in the state's detention rate.[22]

This study of national standards detention criteria, then, is one of the first to employ a detailed analysis of failure to appear and rearrest rates for children referred to juvenile court. Specific information, such as the type of rearrest offense committed and whether the child was found guilty of the rearrest offense was recorded and can be analyzed. This is also one of the first detailed studies to compare detention practices between counties by using the effectiveness measures of failure to appear and rearrest rates. Finally, this is the first

study to test the effectiveness of national standards detention criteria in jurisdictions that substantially comply with the criteria.

3 Data Results

This section presents survey results of a randomly selected sample of juvenile court referrals from each jurisdiction. Detention rates, failure to appear rates, and rearrest data are presented, followed by a brief summary discussion. The section compares results between Gloucester County and Salt Lake County, and between Taos County and Lenewee County. Each time the data were compared, a statistical test was applied to determine if there was a statistically significant difference between the two jurisdictions.* A significant difference between the jurisdictions was concluded only when the test yielded a .05 level of significance. Appendix A provides a more detailed description of the statistical testing procedures used.

detention rates

Table 1 shows data concerning the percentage of cases eligible for detention according to the criteria. The table also shows the actual detention placement rates for the four jurisdictions. It is interesting to note that Gloucester County has significantly more court referrals eligible for detention according to the national standards criteria than Salt Lake County. This indicates that Gloucester County has a much more serious court referral population than Salt Lake County. Despite this situation, Gloucester County detained significantly fewer children than Salt Lake County after adjusting for the eligibility rates in each county. In other words, the nature of the two court referral populations does not seem to warrant the fact that Salt Lake County has a significantly higher detention rate than Gloucester County.

Results for the rural counties indicate that there is no significant difference between the rates of cases eligible for secure detention according to the detention criteria. However, Lenewee County detained fully 30 percent of the children referred to court. Taos County did not detain any child for over 12 hours. In other words, although the nature of the court referral populations was similar, Lenewee County detained considerable more children than Taos County.

* Note: Either the "differences between proportions" test, or the "differences between means" test was used through the computation of Z-scores.

table 1

ELIGIBILITY FOR DETENTION AND ACTUAL DETENTION PLACEMENT DATA

	Urban Counties over 175,000 Population		
	Gloucester Co., NJ (substantially meets national standards)	Salt Lake Co., Ut (does not meet national standards)	Z-scores
Randomly selected sample size[1]	199	205	
Percent of cases eligible for detention according to national standards criteria	17.0%	8.3%	3.16[2]
Percent of cases actually detained over 12 hours between arrest and final disposition	8.0%	14.1%	66.97[3]

	Rural Counties under 85,000 Population		
	Taos County, NM (substantially meets national standards)	Lenewee Co., MI (does not meet national standards)	Z-score
Randomly selected sample size[1]	151	155	
Percent of cases eligible for detention according to national standards criteria	6.0%	9.7%	1.20[4]
Percent of cases actually detained over 12 hours between arrest and final disposition	0.0%	30.3%	7.16[3]

[1]Note: Sample sizes are the same for all tables in this report.
[2]Represents a significant difference at the .05 level of significance using difference between proportions test.
[3]Computed by a difference between means test. Represents a significant difference at the .05 level of significance.
[4]Does not represent a significant difference at the .05 level of significance using a difference between proportions test.

To provide better insight into these detention rates, we can look more closely at the characteristics of the children detained in the two jurisdictions not meeting national standards criteria. Of the children detained over 12 hours in Salt Lake County, 72 percent did not meet eligibility for detention according to the national standards criteria. Over half the children detained were only charged with misdemeanor offenses. In Lenewee County, 81 percent of the children detained did not meet national standards criteria for detention. The single most serious offense charged against 57 percent of the children detained in Lenewee County was either a misdemeanor or a status offense.*

Gloucester and Taos Counties released considerably more children than the other comparison counties, even though the court referral populations were composed of similar or even more serious offenders than the other two counties. If the purpose of pretrial detention is to protect the public safety and court process, then it might be expected that Gloucester and Taos Counties would experience much higher rates of failures to appear for court hearings and rearrests prior to final disposition. The next two sections analyze survey results in these two areas.

failure to appear data

Table 2 presents failure to appear data for the four jurisdictions. With the exception of Salt Lake County, the failure to appear rate in each jurisdiction was relatively low. Furthermore, the results indicate that there was no significant difference between the failure to appear rates in the urban or rural jurisdictions. This indicates that the Advisory Committee's detention criteria have not posed a significant risk to an orderly court process in the urban and rural jurisdictions which conform to the criteria.

To further test these results, the time between final disposition and the initial court referral was controlled to observe any impact on the failure to appear rates. It is possible that one of the jurisdictions take a considerable length of time to dispose of cases and may, as a result, experience a higher rate of failure to appear for court hearings. For example, a child's family may have moved from the jurisdiction, or decided that the incident in question was no longer important enough to warrant attending a court hearing. Consequently, an 80-day limit between the initial court referral and final disposition was set, and new failure to appear rates were computed. The 80-day limit was chosen since the

* Four cases detained in Gloucester County did not meet national standards criteria for detention. One child was detained less than 24 hours on a charge of possessing stolen property. Another child was detained three days and released to his parents after being charged with running away and being drunk and disorderly. Two other cases charged with assault and battery misdemeanor offenses, had serious past records, and were detained for three and four days. These cases represent two percent of the population ineligible for detention. Given this "error rate," it can be said that Gloucester County is in substantial compliance with the national standards detention criteria.

table 2

FAILURE TO APPEAR DATA

	Urban Counties over 175,000 Population		
	Gloucester Co., NJ (substantially meets national standards)	Salt Lake Co., UT (does not meet national standards	Z-scores
Percent of cases failing to appear for court hearings	3.5%	7.8%	1.87[1]
Percent of cases failing to appear for court hearings held within 80 days of initial court referral	2.5%	4.9%	1.27[1]

	Rural Counties under 85,000 Population		
	Taos County, NM (substantially meets national standards)	Lenewee Co., MI (does not meet national standards)	Z-scores
Percent of cases failing to appear for court hearings	1.3%	1.9%	.42[1]
Percent of cases failing to appear for court hearings held within 80 days of initial court referral	0.0%	1.9%	1.70[1]

[1]Does not represent a significant difference at the .05 level of significance using a difference between proportions test.

Advisory Committee has recommended this maximum time limit be observed for virtually all juvenile court cases. Table 2 indicates that applying the time limit to the survey cases reduced the failure to appear rate in three of the four jurisdictions. It also shows that there was still no significant difference between the failure to appear rates in either the urban or rural jurisdictions. Once again, this indicates that the jurisdictions which meet the detention criteria have not experienced a significantly higher rate of failure to appear for court hearings.

rearrest rates

Table 3 presents rearrest data for the two urban jurisdictions. The table indicates the number of rearrests occurring between the time of initial court referral and the final disposition of that referral. In some instances, children were rearrested twice during this time period which is accounted for in the results. In addition to showing the total number of rearrests which occurred, the table also notes how many rearrests were for felony-type offenses.

The results show that Gloucester County had significantly fewer rearrests for all crimes than Salt Lake County. The total percentage of rearrests in Gloucester County was 12.5 percent as compared to a rearrest rate of 21.5 percent in Salt Lake County. Looking only at felony rearrests, however, reveals that there was no significant difference between the two counties. These results suggest that Salt Lake County experienced a higher rate of rearrests for misdemeanors and status offenses. However, there was no difference between the counties in terms of a major threat to the public safety resulting from rearrests for serious felony-type offenses.

The bottom half of Table 3 further tests these results by controlling for the time between initial court referral and the final disposition of that referral. The nationally recommended 80-day limit was applied to the rearrest data in the same manner as applied to the failure to appear results in the previous section. The table shows that the rearrest rates for both counties were lower after the 80-day limit was applied. With this controlling factor, neither the total rearrest rate nor the percentage of felony rearrests varied significantly between the two counties. These results confirm that Gloucester County has been able to release children not meeting national standards criteria for detention without significantly increasing the threat to the public safety.

Table 4 presents rearrest data for the two rural jurisdictions. The statistical test of significance reveals that there is no significant difference between the two jurisdictions in either the rate of all rearrests or the rate of felony rearrests. It was also found that there is no change in the rearrest rates when the 80-day limit between initial court referral and final disposition is applied to the data. Therefore, it can be concluded that Taos County has been able to release significantly more children than Lenewee County without posing an increased threat to the public safety.

table 3

REARREST DATA FOR URBAN JURISDICTIONS[1]

	Urban Counties over 175,000 Population		
	Gloucester Co., NJ (substantially meets national standards)	Salt Lake Co., UT (does not meet national standards)	Z-scores
Total percent of all rearrests occurring prior to final disposition of original court referral	12.5%	21.5%	2.40[2]
Total percent of all felony rearrests occurring prior to final disposition of original court referral	7.0%	10.2%	1.15[3]
Total percent of all rearrests occurring within 80 days of original court referral	9.5%	15.6%	1.85[3]
Total percent of all felony rearrests occurring within 80 days of original court referral	5.0%	8.3%	1.33[3]

[1] Only cases where the child was found guilty of the rearrest charges have been included.

[2] Represents a signigicant difference at the .05 level of significance using a difference between proportions test.

[3] Does not represent a significant difference at the .05 level of significance using a difference between proportions test.

table 4

REARREST DATA FOR RURAL JURISDICTIONS[1]

	Rural Counties under 85,000 Population		
	Taos County, NM (substantially meets national standards)	Lenewee Co., MI (does not meet national standards)	Z-scores
Total percent of all rearrests occurring prior to final disposition of original court referral	8.6%	3.9%	1.70[2]
Total percent of all felony rearrests occurring prior to final disposition of original court referral	4.7%	1.3%	1.75[2]

[1]Only cases where the child was found guilty of the rearrest charges have been included.

[2]Does not represent a significant difference at the .05 level of significance.

summary of data results

This section presents results of surveys to assess the effectiveness of the Advisory Committee's criteria at minimizing unnecessary detention while protecting the public safety and insuring an orderly court process. The survey results revealed that:

-- Both the urban and rural jurisdictions meeting the criteria detained significantly fewer children than the comparison counties, even though the court referral populations were similar or even more serious in the counties meeting the criteria.

-- There was no significant difference in the failure to appear rates for either the rural or urban jurisdictions.

-- Total rearrest rates and felony rearrest rates were similar or even lower in both the rural and urban jurisdictions meeting the criteria.

With regard to the original hypotheses, it can be concluded that:

1) proportionately fewer children are detained in the jurisdictions that meet the criteria;

2) the Advisory Committee's criteria can be implemented in both a rural and an urban setting, without experiencing a significantly higher rate of rearrests between the time of initial arrest and final disposition; and

3) the Advisory Committee's criteria can be implemented in both a rural and an urban setting, without experiencing a significantly higher rate of failure to appear for court hearings.

The implications of these results for detention practices in juvenile court jurisdictions are discussed in the following section.

4 Implications and Policy Recommendations

The Virginia State Board of Corrections has noted that, "probably no other concept in corrections or youth services is as poorly understood as that of secure detention."[23] Repeated studies documenting pervasive detention abuse across the country testify to the validity of this statement. Ferster, Snethen, and Courtless, frustrated by the inability of the nation's juvenile courts to reduce the detention rate, suggested that perhaps "the generally accepted policy of releasing most juveniles to their homes is wrong. If this is the case, the fact that the detention rate is high is to be expected." However, the researchers concluded that, "The available evidence clearly indicates that the policy is not wrong. Large numbers of juveniles are detained and then released to the community, either without any delinquency petition, or after the adjudication decision. Therefore, it seems unlikely that their detention was necessary."[24] This study of the Advisory Committee's detention criteria provides empirical data which bolsters the argument that many children are unnecessarily detained.

How is it, then, that Taos and Gloucester Counties can successfully implement the criteria? Mary Martinez, chief probation officer in Taos County says, "There's no magic in what we're trying to do here. It can be duplicated in other jurisdictions."[25] Ms. Martinez points to several factors present in Taos County:

1) the probation office firmly believes that children referred to court are innocent until proven guilty; they would prefer to make a mistake by releasing a child than by inappropriately detaining a child;

2) the probation officers are highly trained social workers who believe that they should serve as advocates for the child, and heavily involve family and community resources to help the child;

3) probation office decisions are supported by the juvenile court judge, the district attorney, and the police;

4) the police always contact the probation office (which is on-call 24 hours a day) immediately whenever a child is arrested and not directly released to his/her parents;

5) Taos County utilizes a temporary nonsecure shelter home with houseparents on-call 24 hours a day, who must accept all placement referrals from the court. The

houseparents receive an annual salary of approximately $12,000 regardless of the number of children placed in the home.

Mr. Henry Sauselen, Director of the Court Intake Office in Gloucester County, cited similar factors contributing to their success in implementing the Advisory Committee's detention criteria. Of special note is the fact that police and court intake officers make every effort to place a child with his/her parents, relatives, or even the home of one of the child's friends, if secure custody is not warranted. This policy works so well that Gloucester County does not operate a nonsecure shelter home devoted solely for pretrial custody. On rare occasions when no responsible adult can be found to provide custody, a halfway house for children in the County, or a shelter home in a neighboring county, is used for temporary placement.[26] Detective Sergeant Frank Thoma, a juvenile police officer in the County notes that it might take longer to find a suitable placement for a child, but it is far better than unnecessarily placing a child in the County's juvenile detention center.[27] Thus, successful implementation of the criteria does not appear to require costly remedies, but instead demands commitment to a philosophy of finding placements for children in the least restrictive setting possible.

The nature of this study's research design precludes predicting what the exact impacts might be of implementing the detention criteria in every rural or urban jurisdiction. Nevertheless, the results of this study bear important implications for officials and lay citizens working in the juvenile justice system. State legislators, responsible for the drafting of juvenile codes, should consider limiting the wide discretion currently granted detention decision-makers which has led to extensive detention abuse. The Advisory Committee's criteria could be incorporated into state statutes to prohibit the detention of children not meeting the criteria. At the least, juvenile codes should clearly and narrowly define the permissible reasons for pretrial detention. In this regard, one of the more specific state codes is the State of New Jersey's. The New Jersey Code stipulates that:

> A juvenile charged with delinquency may not be placed or retained in (secure) detention under this Act prior to disposition, except as otherwise provided by law, unless:
>
> 1) detention is necessary to secure the presence of the juvenile at the next hearing; or
>
> 2) the nature of the conduct charged is such that the physical safety of the community would be seriously threatened if the juvenile were not detained.[28]

As noted, experience in New Jersey shows that detention abuse is still pervasive in many counties of the state. Therefore, other people in the juvenile justice system must also be involved to insure that the state statute is uniformly and stringently applied.

Juvenile court judges are usually delegated chief responsibility to uphold the state law in their jurisdiction. This study's results should provide strong incentive for judges to apply the Advisory Committee's criteria to all detention decisions. Several previous studies have also

encouraged jurisdictions to use specific and objective detention criteria. As previously mentioned, the detention center in Cuyahoga County, Ohio experienced a 60 percent decline in the detention population following the adoption of strict detention criteria. The juvenile court judge reports, "Had we been told as we began our program that our average daily population could be reduced by (60 percent), we would have been incredulous, especially so since we were in a period of rocketing delinquency...In a word, we (simply) challenged the necessity of detaining every child for whom detention was suggested."[29]

To test the effectiveness of the Advisory Committee's criteria in a jurisdiction, a juvenile court judge could apply the criteria for a two-month trial period. The rearrest and failure to appear rates during the trial period could be compared with a two-month period when the criteria were not used. If the results showed no significant increases in the rearrest or failure to appear rates, then it could be concluded that the criteria have been applied without an increased threat to the public safety or the court process. A similar type of study in Jefferson County (Louisville), Kentucky is being conducted by the Kentucky Youth Advocates and the Community Research Forum of the Univeristy of Illinois. Early indicators point to a dramatic drop in the average daily detention population to the low twenties, a figure which, before the criteria were applied, had at times reached the upper eighties.

This study should be pertinent to the activities of chief probation officers also. Often, probation departments evaluate the effectiveness of their detention policies by determining how many children were released at court intake, or how many police requests for detention were denied. These are false measures of effectiveness which seem to presume that a child is to be detained unless some factor intervenes resulting in the child's release. Moreover, these measures ignore the central purposes of pretrial detention--to protect the public safety and the court process. Appropriate evaluative measures of detention policies are the detention,failure to appear and rearrest rates. Changes in these rates can be easily monitored to indicate needed modification in the pretrial system, such as, improving the quality of nonsecure placement alternatives. If the rearrest and failure to appear rates are low, then reporting these statistics can also ease pressure from those who feel more children need to be detained to protect the public safety.

Juvenile detention administrators should also find these research results relevant to their difficult jobs. Although statutes clearly stipulate in idealistic terms how children ought to be cared for while in state custody, the detention administrator must deal with the reality of providing care with limited resources and little control over admissions and discharges. Holding both hardcore delinquents and children charged with minor offenses in an overcrowded facility, amounts to managing a political time bomb which threatens to wipe out an administrator when a crisis explodes at the detention center. In fact, case studies reveal that overcrowded conditions in four detention centers were major factors in crises leading to the directors' dismissals.[30] Consequently, detention administrators should be concerned that detention is used only as a last resort, and should actively support efforts to implement the Advisory Committee's cri-

teria in their jurisdiction.

State and regional juvenile justice planners should bear these results in mind whenever jurisdictions request additional detention space. There is increased likelihood that more requests for additional detention space will be made in future years, given a growing national drive to remove children from adult jails. Recently, the National Coalition for Jail Reform unanimously endorsed the position that no child should be placed in an adult jail. The impact of this powerful coalition, which includes groups such as the National Sheriff's Association and the National Association of Counties, may soon be felt on both the state and national levels. If state or federal laws are passed to prohibit juvenile jailing, it is suspected that many jurisdictions will request new detention space that equals or exceeds the existing juvenile cell space in adult jails. However, many of the juveniles currently in jail do not meet criteria for secure detention, and oculd be safely released to supervised nonsecure settings. State and regional juvenile justice planners should insure that new detention space is approved only to meet the appropriate secure custody needs of a jurisdiction as defined by the Advisory Committee's criteria.

Finally, lay citizens should take an active role in monitoring the detention practices of their juvenile courts. Citizen groups concerned with the rights and welfare of children can be powerful advocates pushing for the adoption of these detention criteria in their jurisdictions. They can ask their juvenile court judge to implement the criteria on a trial basis to determine if failure to appear and rearrest rates are adversely affected. Citizen groups can also work to see that nonsecure alternatives are available and that court intake offices are adequately staffed. John Kennedy said more than 16 years ago that "children are our most precious resource." Although this is often repeated by local officials, in reality many children are now in detention centers and adult jails, because local officials have failed to commit the resources to find suitable alternatives. The voice of citizen groups expressing the needs and rights of young people is desperately needed to reduce inappropriate detentions.

'What sort of things do you remember best?' Alice ventured to ask.

'Oh, things that happened the week after next,' the Queen replied in a careless tone. 'For instance, now' she went on, sticking a large piece of plaster on her finger as she spoke, 'there's the King's Messenger. He's in prison now, being punished: and that trial doesn't even begin till next Wednesday: and of course the crime comes last of all.'

'Suppose he never commits the crime?' said Alice.

'That would be all the better wouldn't it?' the Queen said, as she bound the plaster round her finger with a bit of ribbon.

--Lewis Carroll, Through the Looking Glass

5 Conclusion

Like Alice, many observers of juvenile detention practices in this country are often befuddled by the tendency to introduce factors beyond protecting the public safety and court process into detention decisions. A thorough literature search by Pappenfort and Young revealed that detention is often used "for punishment, for the administrative convenience of the court, and for lack of available social services for youths and their families."[31] Consequently, two identical children arrested on identical charges, but in different jurisdictions may face vastly different experiences. One child may be released to the custody of his/her parents. The other child, however, may be detained in an adult jail or juvenile detention center for an indefinite period, struggling to survive in an environment which is at best, uncertain.

Detention criteria, proposed by the National Advisory Committee on Standards for the Administration of Juvenile Justice, attempt to reduce widespread detention abuse by clearly defining children who are ineligible for secure detention. These specific and objective criteria limit the wide discretion currently afforded detention decision-makers. This study compared two jurisdictions in compliance with the criteria, with two jurisdictions not meeting the criteria, to test whether there was a significant difference in the number of rearrests or failures to appear for court hearings. It was found that two jurisdictions in rural and urban areas could release juveniles not meeting these criteria without posing an increased threat to the public safety or an orderly court process.

Although these results cannot be used to predict the exact impact of implementing these criteria in all jurisdictions, they should provide strong incentive for all jurisdictions to test the criteria on an experimental basis. Jurisdictions should consider implementing these criteria for a two-month trial period to determine if current rearrest and failure to appear rates are adversely affected. The effect of jurisdictions testing these criteria could be significant. Surveys conducted by the Community Research Forum during the course of technical assistance projects in 1978-79 have collected juvenile court referral data from 187 counties in ten states.[32] Approximately 55 percent of the children detained in juvenile detention centers and adult jails in these counties were found to be ineligible for detention according to the Advisory Committee's criteria. If this pattern is consistent nationwide and if juvenile courts could successfully implement the Advisory Committee's criteria,

then potentially more than half of the estimated one million children annually detained could be safely released to supervised nonsecure settings.[33] Not only would the juvenile pretrial system become more accountable and efficient, but more importantly, thousands of children would not be subjected to the trauma of unnecessary detention in juvenile detention centers and adult jails.

Notes

[1]See: Rosemary C. Sarri, Under Lock and Key: Juveniles in Jails and Detention, National Assessment of Juvenile Corrections (Ann Arbor, Michigan: University of Michigan, 1974), p. 22; Justine Wise Polier and Donald Rademacher, Children in Adult Jails, (Washington, D.C.: Children's Defense Fund of the Washington Research Project, 1976), p. 29; National Council on Crime and Delinquency, Standards and Guides for the Detention of Children and Youth, (New York: National Council on Crime and Delinquency, 1961), p. 13.

[2]Robert S. Fetrow and Anne Fetrow, "How a Pre-Trial Facility Can Destroy the Self-Esteem of the Juvenile, "International Journal of Offender Therapy and Comparative Criminology 18 (1974): 227-32.

[3]Sherwood Norman, Think Twice Before You Build or Enlarge a Detention Center, (New York: National Council on Crime and Delinquency), p.6.

[4]Sarri, Under Lock and Key, p. 5.

[5]See: Marjorie Anne McDiarmid, "Juvenile Pre-Trial Detention, "National Legal Aid and Defender Association Briefcase 34 (1977): 78; Ernest L. Aubry, "The Nature, Scope and Significance of Pre-Trial Detention of Juveniles in California," Black Law Journal 1 (1971): 160-65.

[6]See: Martin Guggenheim, "Paternalism, Prevention, and Punishment: Pretrial Detention of Juveniles, "New York University Law Review 52 (1977): 1064; National Criminal Justice Information and Statistics Service, Law Enforcement Assistance Administration, Analytic Rep. No. 4, Juvenile Dispositions: Social and Legal Factors Related to the Processing of Denver Delinquency Cases (1975), pp. 28-29.

[7]Rachel Wonsever, "Juvenile Justice: Preventive Detention, "Brooklyn Law Review 43 (1977) :551-59.

[8]Juvenile Justice and Delinquency Prevention Act. sec. 223(a)12(B) (1974) 42 U.S.L. 5633.

[9]See juvenile codes for the States of Wisconsin, New Jersey, Montana, Iowa and Washington, D.C.

[10]Children's Defense Fund, Children in Adult Jails, pp. 3-4.

[11]Robert C. Kihm, "Final Report to the Lancaster County Juvenile Justice Advisory Commit-

tee: Removal of Juveniles from Adult Jails and Lockups," Community Research Forum, (Champaign, Illinois: Community Research Forum, 1979) p. 11.

[12]Robert C. Kihm, "Report to the Passaic County Juvenile Justice Committee and the New Jersey Department of Corrections: Assessment of Passaic County's Juvenile Pretrial Placement Needs," Community Research Forum (Champaign, Illinois: Community Research Forum, 1979), p. 10.

[13]Joseph DeJames, Director, Juvenile Detention and Monitoring Unit, New Jersey Department of Corrections, telephone interview on April 26, 1979.

[14]John H. Kramer and Darrell Steffensmeier, "The Differential Detention/Jailing of Juveniles: A Comparison of Detention and Non-Detention Courts," Pepperdine Law Review 5 (1978): 795-807.

[15]National Institute for Juvenile Justice and Delinquency Prevention, Report of the Advisory Committee to the Administrator on Standards for the Administration of Juvenile Justice: Standards on Adjudication (Washington, D.C.: Law Enforcement Assistance Administration, 1976, p. 83.

[16]U.S. Census Bureau, Characteristics of the Population, 1970 (Washington, D.C. 1973).

[17]Pappenfort and Young, Use of Secure Detention, p. 33.

[18]Sarri, Under Lock and Key, p. 14.

[19]Walter G. Whitlatch, "Practical Aspects of Reducing Detention Home Population," Juvenile Justice 24 (1973), pp. 17-29.

[20]R.M. Arriessohn and G. Gonion, "Reducing the Juvenile Detention Rate," Juvenile Justice 24 (1973), pp. 28-33.

[21]G.B. Haarman, Analysis of Detention (Louisville, Kentucky: Metropolitan Social Services Department, 1972), p. 62.

[22]Jim Clark, Florida Division of Youth Services, Planning Coordination Unit, telephone interview on November 12, 1979.

[23]Virginia State Board of Corrections, Minimum Standards for Secure Detention Homes (Richmond, Virginia: Virginia Board of Corrections, 1974), p. 13.

[24]E.Z. Ferester, E.N. Snethen, and T.F. Courtless, "Juvenile Detention: Protection, Prevention, or Punishment," Fordham Law Review 38 (1969), p. 193.

[25]Mary Martinez, Chief Probation Officer, Taos, New Mexico Juvenile Court, personal interviews held on April 23-25, 1979.

[28]Civil and Criminal Justice Code, New Jersey Statutes Annotated, sec. 2A:4-56(b).

[29]Walter Whitlatch, Practical Aspects of Reducing Detention Home Population," p. 29.

[30]The case studies analyzed detention administrators' resignations in Los Angeles, California (1974); Louisville, Kentucky (1979); New York, New York (1978); and Passaic County, New Jersey (1979). See: Robert C. Kihm, "Juvenile

Detention Administration: Managing a Political Time Bomb" (Master's seminar paper, University of Illinois, 1979).

[31]Pappenfort and Young, Use of Secure Detention, p. 58.

[32]The ten states where surveys were conducted include: Louisiana, Michigan, Nebraska, New Jersey, Ohio, Oklahoma, Pennsylvania, South Carolina, Texas, Utah.

[33]Sarri, Under Lock and Key, p. 5, 17.

Appendix A

DIFFERENCE BETWEEN PROPORTIONS TESTING METHODOLOGY

I. The difference between proportions test was used in this study to determine whether a statistically significant difference was recorded between two jurisdictions. The method was used to test the following hypotheses:

Null: There is no difference between the sample proportions.

Alternative: There is a difference between the sample proportions.

The procedure used to apply the difference between proportions test is as follows:

1) Estimate population proportions:

$$P=\frac{N_1(\hat{P}_1)+N_2(\hat{P}_2)}{N_1+N_2} \qquad Q=1-P$$

2) Compute standard error:

$$\sigma_{\hat{P}_1-\hat{P}_2}=\sqrt{\frac{PQ}{N_1}+\frac{PQ}{N_2}}$$

3) Compute standard score:

$$Z=\frac{(\hat{P}_1-\hat{P}_2)}{\sqrt{\hat{P}_1-\hat{P}_2}}$$

4) Inference decision:
Since the hypotheses are nondirectional, a Z-score greater than 1.96 is necessary to reject the null hypothesis.

The following example tests the difference between the eligibility for detention rates of Gloucester and Salt Lake Counties (as reported in Table 1):
Null hypothesis: There is no difference between the eligibility for detention rates of Gloucester and Salt Lake Counties.

Alternative Hypothesis: There is a difference between the eligibility for detention rates of Gloucester and Salt Lake Counties.

P= unknown; Q= unknown

$\hat{P}_1$= .181; $\hat{q}_1$= .083

N_1= 199; N_2= 205

$$P=\frac{199\ (.181)+205\ (.083)}{199+205}=\frac{36.019+17.015}{404}$$

$$=\frac{53.034}{404}$$

= .131272

Q= 1 - .131272 = .868728

$$\sigma_{\hat{P}_1\hat{P}_2} = \sqrt{\frac{(.131272)(.868728)}{199} + \frac{(.131272)(.868728)}{205}}$$

$$= \sqrt{\frac{.1140397}{199} + \frac{.1140397}{205}}$$

$$= \sqrt{.00057306 + .00055629}$$

$$= \sqrt{.00112935} = .0336058$$

$$Z = \frac{.181 - .083}{.0336058} = \frac{.098}{.0336058} = 2.92$$

Inference decision: Since the hypothesis is non-directional and a Z-score of 2.92 is greater than 1.96, we can reject the null hypothesis and conclude that there is a statistically significant difference between the eligibility rates of Gloucester and Salt Lake Counties.

II. The difference between means test was used to determine the statistical significance between the detention rates of two counties. The detention rate for a jurisdiction is assumed to be partially contingent on the types of referrals made to the juvenile court. For example, a juvenile court that receives a high rate of felony-type referrals would be expected to have a higher detention rate than a county that only receives misdemeanor and status offenders. Therefore, to only compare actual detention rates between two counties, without adjusting for the characteristics of their referral populations, would be a misleading indicator of actual detention practices. The difference between means test allows this adjustment to be made by incorporating the eligibility rates, which were obtained by applying the standardized detention criteria, into the computations.

This procedure tested the following hypotheses:

Null: After adjusting for the percentage of cases eligible for detention, there is no difference between the two county's detention rates.

Alternative: After adjusting for the percentage of cases eligible for detention, there is a difference between the two county's detention rates.

The procedure used to apply the difference between means test is as follows:

N_1 = Number of cases not detained

N_2 = Number of cases detained

P_{a1} = Observed probability of detention (not detained)

P_{a2} = Observed probability of detention (detained)

P_{est} = estimated probability of detention

$$X = \sum_{i=1}^{N_1} (P_{a1} - P_{est}) + \sum_{i=1}^{N_2} (P_{a2} - P_{est})$$

1) Compute sample means:

$$\bar{X} = \frac{X}{N_1 + N_2}$$

2) Compute standard deviation:

$$s.d.=\sqrt{\frac{N_1((P_{a1}-P_{est})-\overline{X})^2=N_2((P_{a2}-P_{est})-\overline{X})^2}{(N_1+N_2)-1}}$$

3) Compute estimates:

$$\sigma\,\overline{X}_1=\frac{s.d.}{\sqrt{(N_1+N_2-1}}$$

4) Compute standard error:

$$\sigma\,\overline{X}_1-\overline{X}_2=\sqrt{\overline{X}_1^2+\overline{X}_2^2}$$

5) Compute standard score:

$$Z=\frac{(\overline{X}_1-\overline{X}_2)-0}{\sigma\,\overline{X}_1-\overline{X}_2}$$

6) Inference decision:
Since the hypothese are nondirectional, a Z-score greater than (±) 1.96 is necessary to reject the null hypothesis.

The following example tests the difference between the detention rates of Gloucester and Salt Lake Counties (as reported in Table 1):

Null: After adjusting for the percentage of cases eligible for detention in both counties, there is no difference between the detention rates of Gloucester and Salt Lake Counties.

Alternative: After adjusting for the percentage of cases eligible for detention in both counties, ther is a difference between the detention rates of Gloucester and Salt Lake Counties.

1) Compute sample means

Gloucester County -- N_1= 199 x .92 = 183

N_2 = 199 x .08 = 16

P_{a1} = 0

P_{a2} = 1

P_{est} = .17

$$\overline{X}_1=\frac{183(0-.17)+16(1-.17)}{183+16}=\frac{-17.83}{199}=-.089$$

Salt Lake County -- N_1= 205 x .859 = 176.1

N_2= 205 x .141 = 28.9

P_{a1}= 0

P_{a2}= 1

P_{est}= .083

$$\overline{X}_2=\frac{176.1(0-.083)+28.9\,(1-.083)}{176.1+28.9}$$

$$=\frac{11.88}{205}=.058$$

2) Compute standard deviations:

Gloucester County --

$$s.d. = \sqrt{\frac{183(-.17-(-.089))^2+16(.83-\quad(-.089))^2}{(183 + 16) -1}}$$

$$= \sqrt{\frac{14.714}{198}} = .2726$$

Salt Lake County --

$$s.d. = \sqrt{\frac{176.1(-.083-(.058))^2+28.9(.917-.058)^2}{(176.1 + 28.9) -1}}$$

$$= \sqrt{\frac{24.8247}{204}} = .3488$$

3) Compute estimates:

Gloucester County-- $\sigma_{\bar{x}_1} = \frac{.2726}{(183+16) -1} = .001377$

Salt Lake County-- $\sigma_{\bar{x}_2} = \frac{.3488}{(176.1+28.9) -1} = .00171$

4) Compute standard error:

$$\sigma_{\bar{x}_1-\bar{x}_2} = \sqrt{(.00137)^2 + (.0017)^2} = .002195$$

5) Compute standard score:

$$Z = \frac{(-.089 - .058) - 0}{.002195} = -66.97$$

6) Inference decision:

Since the hypothesis is non-directional and a Z-score of -66.97 is greater than -1.96, we can reject the null hypothesis and conclude that there is a statistically significant difference between the detention rates of Gloucester and Salt Lake Counties.

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